



June 29, 2015

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460
(202) 566-1667

Re: FOIA Request, Pollinator Adverse Incident Data

Dear EPA FOIA Officer:

Under the Federal Freedom of Information Act (FOIA), CropLife America (CLA) requests all reasonably segregable, nonexempt portions of documents, records and materials that the Environmental Protection Agency (EPA or the Agency) has relating to adverse incident reports relating to honey bees/other pollinators and pesticide products from 1995 through the present. This includes, but is not limited to, documents, records and materials contained in and relating to the Agency's Incident Data System (IDS), Ecological Incident Information System (EIIS), and FIFRA 6(a)(2) records.

For purposes of this request, "documents, records and materials" should be interpreted to include copies of all correspondence, including, but not limited to, internal memoranda, memoranda and correspondence with any other federal or state agency and staff or individuals, papers, maps, data, scientific (lab and field) studies, samples, schematics, field notes/reports, telephone logs, phone calls, briefing/application documents, e-mail, cell phone records, text messages, instant messages, scheduling notes, meeting minutes and materials, other correspondence among meeting attendees or those who scheduled meetings and notes documenting any communication (regardless of physical form or characteristics). This includes correspondence via personal or unofficial e-mail accounts, and other unofficial communication mediums.

In EPA's recent *Proposal to Mitigate Exposure to Bees From Acutely Toxic Pesticide Products* (EPA-HQ-OPP-2014-0818; <https://www.federalregister.gov/articles/2015/05/29/2015-12989/proposal-to-mitigate-exposure-to-bees-from-acutely-toxic-pesticide-products-notice-of-availability>), the Agency recognizes that state pollinator management plans have enhanced beekeeper-to-grower communication, which has resulted in fewer bee kill incidents being reported.¹ The relevant Federal Register notice also cites incidents involving large numbers of bee colonies as a justification for the action proposed to prohibit use of certain pesticides during bloom of commercially pollinated crops. Furthermore, the Agency also recognizes certain uncertainties with respect to this incident data.² When CLA recently inquired about the availability of this information, EPA staff responded stating that this internal data is only available through a FOIA request.

¹ 80 Fed. Reg. 30,644, 30,646 (May 29, 2015).

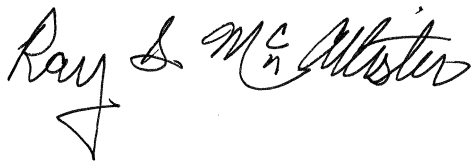
² *Id.*

In order to effectively comment on these aspects of EPA's proposal, CLA asks that EPA respond to this expedited FOIA request as soon as possible, but no later than 10 days from the date of this request, as required by law.³ EPA's proposal has the potential to impact significant property rights of CLA's members. As such, CLA has an exceptional need or urgency⁴ for processing this request in order to submit meaningful public comments by the July 29, 2015 comment deadline.⁵ CLA is a trade association with the primary professional responsibility of disseminating information to its members and advocating in response to government proposals and actions. In this instance CLA meets the Agency's requirement for expedited FOIA processing because of its demonstrated urgency to inform the public about EPA's proposal through its public comments by July 29.⁶ Furthermore, delaying this expedited request would result in the loss of substantial due process rights to CLA and its members.⁷

CLA is willing to pay fees for this request up to a maximum of \$1000. If you estimate that the fees will exceed this limit, please inform me before processing this request. CLA prefers to receive the information electronically in PDF and/or spreadsheet file format if possible, and requests that any responsive materials be released on a rolling basis. We would like to discuss the most urgent and important information in order to prioritize the response to this request. CLA reserves the right to appeal any denial of this request.

If you have any questions regarding this request, please contact me at 202-872-3874 or rncallister@croplifeamerica.org. I look forward to receiving your response within the 10-day statutory time period. Thank you for your assistance with this matter.

Sincerely,



Ray McAllister, Ph.D.
Senior Director, Regulatory Policy
CropLife America

³ 5 U.S.C. § 552(a)(6)(E)(ii)(I).

⁴ See *Open America v. Watergate Special Prosecution Force*, 547 F.2d 605, 616 (D.C. Cir. 1976) (finding that federal agencies must process expedited FOIA requests when an exceptional need or urgency is shown).

⁵ EPA's Proposal to Protect Bees from Acutely Toxic Pesticides – Public Webinar and Comment Period Extension, available at http://www.epa.gov/oppead1/cb/csb_page/updates/2015/bees-webinar.html (noting EPA's intention to extend the comment deadline until July 29) (last updated June 12, 2015).

⁶ 40 C.F.R. § 2.104(e)(ii).

⁷ See FOIA Update: OIP Guidance: When to Expedite FOIA Requests, U.S. Dept. of Justice, available at <http://www.justice.gov/oip/blog/foia-update-oip-guidance-when-expedite-foia-requests> (stating that agencies regularly expedite FOIA requests to meet filing deadlines and avoid the loss of substantial due process rights) (last updated Aug. 13, 2014); see also 28 C.F.R. § 16.5(d)(iii).